

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

*IN RE CATTLE AND BEEF ANTITRUST
LITIGATION*

This Document Relates To:

Cattle Antitrust Action

Commercial and Institutional Indirect
Purchaser Plaintiffs Action

Consumer Indirect Purchaser Plaintiffs
Action

*Winn Dixie, Inc. & Bi-Lo Holding, LLC
vs. Cargill, Inc., et al., Case No. 21-cv-
1751 (JRT/HB)*

Case No. 0:20-cv-01319 (JRT-HB)

**DECLARATION OF STEVE
COHRON IN OPPOSITION TO
PLAINTIFFS' MOTION TO
COMPEL CUSTODIANS**

I, Steve Cohron, declare as follows:

1. I am the President of Swift Beef Company ("Swift"), which is a subsidiary of JBS USA Food Company ("JBS USA"). I have been an employee of Swift since 2005. As President of Swift, I report directly to Tim Schellpeper, the CEO of JBS USA. Prior to my promotion to President of Swift in 2022, I led the Sales and Pricing group for Swift. I submit this declaration based on my personal knowledge and information provided to me by the relevant business units, and on behalf of JBS USA, Swift, JBS Packerland, Inc. ("Packerland"), and JBS S.A. (collectively, the "JBS Defendants") in support of Defendants' Opposition to Plaintiffs' Motion to Compel Document Custodians.

2. As President of Swift, and previously as the head of Sales and Pricing, I was involved in the day-to-day operations of the JBS Defendants in the United States at all relevant times.

3. I understand that, in the discovery negotiations, the JBS Defendants offered twenty-one document custodians,¹ including all of JBS's key decision-makers for fed cattle procurement and slaughter in the United States, many of whom are high-ranking executives. However, Plaintiffs have now moved to compel additional document custodians from the JBS Defendants.

Plant-Level Custodians

4. I understand that Plaintiffs seek to compel the addition of seven document custodians who hold various management positions at three of the JBS Defendants' plants in the United States. Specifically, my understanding is that Plaintiffs have moved to compel Ryan Wagnon (the Slaughter Operations Manager of the Cactus, Texas plant) as a custodian as well as the "general, slaughter, and fabrication managers" at JBS's Greeley, Colorado and Grand Island, Nebraska plants.

5. Based on my years of experience, JBS's key decision-makers for fed cattle procurement and slaughter in the United States (*i.e.*, those already designated as document custodians) would be involved in any significant decisions related to the procurement and

¹ These custodians are: (1) Andre Nogueira, (2) Bill Rupp, (3) Eric Cahoy, (4) James Hooker, (5) Jason Fullerton, (6) Jeff Hamilton, (7) John Flynn, (8) Karl Skold, (9) Kim Posvic, (10) Larry Rose, (11) Levi Canales, (12) Manny Guerrero, (13) Marco Sampaio, (14) Randy Orton, (15) Sergio Sampaio Nogueira, (16) Shannon Grassl, (17) Steven Williams, (18) Steven Cohron, (19) Tim Schellpeper, (20) Todd Reed, and (21) Wesley Batista Filho (for the year 2017).

slaughter of cattle and the production and sale of beef. For example, those individuals would make the decisions concerning the planned amount of cattle to be slaughtered on a particular day.

6. Moreover, documents and communications concerning the involvement of plant-level personnel – such as the General Managers of the plants – in any slaughter-related or other operational decision-making would be in the possession of the JBS corporate-level custodians who are already agreed-upon document custodians. For instance, if a plant needed to adjust the planned amount of cattle being slaughtered on a particular day, that information would have been communicated to JBS USA’s corporate headquarters.

Wesley Batista –Former JBS S.A. CEO

7. I understand that Plaintiffs seek to compel the addition of Wesley Batista, the former CEO of JBS S.A., as a document custodian.

8. The United States headquarters of JBS are in Greeley, Colorado. Executives in the United States, including myself, are responsible for the day-to-day operations of the JBS Defendants’ beef operations in the United States.

9. While JBS USA, Swift, and Packerland are subsidiaries of JBS S.A., JBS S.A. is a Brazilian entity that has little to no involvement with beef production or cattle procurement in the United States.

10. As CEO of JBS S.A., Wesley Batista was the highest ranking executive for that entity during much of the relevant time period. Mr. Batista was not involved in the day-to-day business decisions of the JBS Defendants’ operations in the United States and

did not make the decisions relevant to this litigation—that is, relating to beef production or cattle procurement in the United States.

Sales Custodians

11. I understand that the JBS Defendants have already agreed to provide six document custodians who had direct responsibility for beef pricing and sales during the relevant time period: (1) myself, (2) John Flynn, (3) Kim Posvic, (4) Randy Orton, (5) Jeff Hamilton, and (6) Shannon Grassl. I understand that Plaintiffs seek to compel Chris Jensen and Jason Kuan as additional document custodians from the JBS Defendants' sales teams.

12. The JBS Defendants have provided custodians with high-level supervision across numerous sales teams, as well as specific information regarding specific teams during the relevant time period.

13. I held various senior roles in Sales and Pricing during the relevant time period, including the Head of Sales and Pricing for Swift. In these roles, I was responsible for the oversight of pricing decisions across all Fed Beef sales teams. Further, as head of sales, I was directly involved in the supervision of multiple sales teams.

14. John Flynn was a Sales Director for Swift. As such, John Flynn was directly involved in supervising multiple Swift sales teams.

15. Kim Posvic was Supply Chain Director for Fed Beef and is currently Head of Sales, Supply Chain, and Logistics. Through these roles, Ms. Posvic would have interacted directly with multiple sales teams. In addition, Ms. Posvic served as a key link between the sales and operations teams that sold beef to our customers.

16. Randy Orton was Head of Food Service and Retail Sales—a large team that

handles several key customer accounts, including customers that then resell beef to their own customers nationwide.

17. Shannon Grassl was Head of Trim Sales, Inside Sales, Supply Chain and Pricing for JBS's Regional Beef division as well as a senior sales executive.

18. Jeff Hamilton was Head of Sales in the Western United States for the Fed Beef division and Head of Outside Sales for the Regional Beef division.

19. Moreover, Bill Rupp, Wesley Batista Filho, and Tim Schellpeper were all executives with the titles of President and/or CEO at one or more of the JBS Defendants and had oversight over sales or interacted with sales personnel from an operational perspective, and would have received various pertinent communications related to sales.

20. Further, with respect to Plaintiffs' arguments to include Jason Kuan as a custodian, I was involved in pricing decisions related to the Fed Beef sold to the case ready business during the relevant time period. JBS's case ready business is a separate business unit within JBS that does not procure or slaughter fed cattle. Rather, the case ready business purchases fed beef that has already been slaughtered. In any event, both Tim Schellpeper and I, who are already document custodians, are likely to possess documents and communications that analyze Swift's sales to the case ready business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of March
2022 at Greeley, Colorado

A handwritten signature in black ink, appearing to read 'SC', is written above a horizontal line.

Steve Cohron
President, Fed Beef
Swift Beef Company